

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

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ANNETTE VOGELFANG,

Plaintiff,

- against -

RIVERHEAD COUNTY JAIL, et al.,

Defendants.
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ORDER

CV 04-1727 (SJF) (JO)

JAMES ORENSTEIN, Magistrate Judge:

On June 30, 2005, I ordered "defendants' counsel [to] submit for in camera review a copy of the internal affairs reports at issue. Upon reviewing the documents I will rule on the plaintiff's request for an order compelling their production." Docket Entry ("DE") 35. By letter dated July 6, 2005, the defendants' counsel submitted two files from the Suffolk County Sheriff's Department Internal Affairs Section designated I-59-01 and I-31-03. DE 39. The former contains an Internal Affairs Report on Investigation, dated January 25, 2002, regarding plaintiff Annette Vogelfang's claim that she was sexually assaulted by a Corrections Office Sergeant on September 5, 2001. The latter contains an Internal Affairs Report on Investigation, dated March 17, 2004, regarding Ms. Vogelfang's claim that she was assaulted and injured by five officers on April 27, 2003. Each report recites investigative steps taken by members of the Internal Affairs Section, and each concludes that the asserted claim was unfounded.

Production of the reports appears to be reasonably likely to lead to the discovery of admissible evidence, *see* Fed. R. Civ. P. 26(b)(1), albeit that evidence may well be useless to supporting Ms. Vogelfang's claim. The reports should therefore be disclosed. The foregoing order does not preclude the defendants from seeking an order of protection to the extent such an

order is needed to protect a party or person from annoyance, embarrassment, oppression, or undue burden. Fed. R. Civ. P. 26(c).

For the reasons set forth above, the plaintiff's application to compel the production of certain Internal Affairs Reports of Investigation is GRANTED. By August 12, 2005, the defendants must either disclose the full reports to the plaintiff or, if they seek a protective order, disclose redacted versions and file a motion for a protective order as to the redacted portions. Counsel for the defendants is directed to serve a copy of this order on the plaintiff.

SO ORDERED.

Dated: Central Islip, New York
August 4, 2005

/s/ James Orenstein
JAMES ORENSTEIN
U.S. Magistrate Judge